

ASSEMBLY BILL

No. 804

Introduced by Assembly Member Huff

February 22, 2007

An act to amend Sections 17210.2 and 17346 of the Financial Code, relating to escrow agents.

LEGISLATIVE COUNSEL'S DIGEST

AB 804, as introduced, Huff. Escrow agents.

Existing law requires a licensed escrow agent in referring to corporate licensure under the Escrow Law in any communication, as specified, to include a statement that the escrow company holds an escrow license issued by the Department of Corporations.

This bill would modify that statement to refer to the California Department of Corporations.

Existing law establishes the Escrow Agents' Fidelity Corporation (Fidelity Corporation) to indemnify its member escrow agents against loss, as specified. Existing law prohibits the Fidelity Corporation and its members from advertising, printing, displaying, publishing, distributing, or broadcasting any statement or representation with regard to a guarantee of trust obligations that is false or misleading or calculated to deceive or misinform the public.

Existing law requires the commissioner, unless otherwise specified, to review and approve any statement or representation with regard to a guarantee of trust obligations prior to its use.

This bill would authorize members to use the seal of the Fidelity Corporation in any advertising referring to the Fidelity Corporation without prior approval of the commissioner.

Existing law requires that advertising referring to the Fidelity Corporation to include a statement to the effect that the Escrow Agents' Fidelity Corporation is a private corporation and is not an agency or other instrumentality of the State of California.

The bill would modify that statement.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17210.2 of the Financial Code is amended
2 to read:

3 17210.2. (a) No escrow agent shall disseminate, or cause or
4 permit to be disseminated, in any manner whatsoever, any
5 statement or representation which is false, misleading, or deceptive,
6 or which omits to state material information, or which refers to
7 the supervision of that agent by the State of California or any
8 department or official thereof.

9 (b) A licensed escrow agent, in referring to the corporation's
10 licensure under this law in any written or printed communication
11 or any communication by means of recorded telephone messages
12 or spoken on radio, television, or similar communications media,
13 shall include the following statement: "This escrow company holds
14 *California* Department of Corporations Escrow License No. ____."

15 (c) The commissioner may order any person to desist from any
16 conduct which the commissioner finds to be a violation of this
17 section.

18 SEC. 2. Section 17346 of the Financial Code is amended to
19 read:

20 17346. (a) Fidelity Corporation and its members shall not
21 advertise, print, display, publish, distribute, or broadcast, or cause
22 or permit to be advertised, printed, displayed, published,
23 distributed, or broadcast, in any manner any statement or
24 representation with regard to a guarantee of trust obligations in
25 their advertisements that is false or misleading or calculated to
26 deceive or misinform the public. Any statement or representation
27 with regard to a guarantee of trust obligations, except the statement
28 set forth in subdivision (b) *and the seal in subdivision (d)*, shall
29 be reviewed and approved by the commissioner prior to its use.

(b) Any advertising referring to Fidelity Corporation shall state in a clear and conspicuous manner, the following statement:

“MEMBER OF ESCROW AGENTS’ FIDELITY CORPORATION (EAFC), ~~A PRIVATE CORPORATION THAT PROVIDES FIDELITY BONDING COVERAGE TO ITS MEMBERS. EAFC IS NOT AN AGENCY—OR INSTRUMENTALITY OF, AND THERE IS NO GUARANTEE OF PAYMENT OF ANY CLAIM BY,~~ OF THE STATE OF CALIFORNIA.”

(c) Neither Fidelity Corporation nor its members shall advertise that trust obligations of escrow agents are “protected,” “guaranteed,” “insured,” or use words to that effect.

(d) *Members may use the seal of Fidelity Corporation in any advertising referring to Fidelity Corporation pursuant to subdivision (b).*